

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA**

**CHARLES JAMES GRAPSKI, and  
MICHAEL CANNEY,**  
Plaintiffs,

Case Number: 01-07 CA 824

v.  
**CLOVIS WATSON, and  
THE CITY OF ALACHUA, FLORIDA**  
Defendants.

FILED  
OK 47  
2007 JUN 22 AM 11:16  
J.K. "DIDDY" REY  
CLERK OF COURTS  
ALACHUA COUNTY, FL.

**AMENDED COMPLAINT**

**[Adding Michael Canney as a plaintiff *inter alia*]**

1. This is an action for declaratory and injunctive relief pursuant to Chapter 86 Fla. Stat.
2. This Court has jurisdiction pursuant to Article V §5(b) Florida Constitution and the foregoing provision.

**PARTIES**

1. At all times relevant hereto, plaintiff Charles James Grapski was a citizen, elector and taxpayer of Alachua County and the State of Florida.
2. Plaintiff Charles James Grapski is hereinafter referred to as Grapski.
3. At all times relevant hereto, plaintiff Michael Canney was a citizen, elector and taxpayer of Alachua County, the City of Alachua, and the State of Florida.
4. Plaintiff Canney is hereinafter referred to as Canney.
5. At all times relevant hereto, defendant Clovis Watson was city manager of the City of Alachua, Florida.
6. Defendant Clovis Watson is hereinafter referred to as Watson.
7. Defendant City of Alachua, Florida is a Florida municipal government organized under the constitution and laws of the State of Florida.



21

8. The City of Alachua, Florida is hereinafter referred to as City.

### **FACTS**

9. City employed Watson as a sworn municipal police officer with the power to arrest.
10. Watson was a qualified police officer with powers to arrest under the law of Florida.
11. Subsequently, City appointed Watson to be City Manager of City.
12. Watson accepted the appointment as City Manager of City and undertook to exercise the powers of the office.
13. The office of City Manager of City is an office within the meaning of Article II §5(a) Florida Constitution.
14. The office of sworn municipal police officer with powers to arrest under the law of Florida is an office within the meaning of Article II §5(a) Florida Constitution.
15. When Watson accepted the office of City Manager of City and began to exercise its powers, he abandoned his position as police officer by operation of law pursuant to Article II §5(a) Florida Constitution.
16. When Watson accepted the office of City Manager of City and began to exercise its powers he abandoned his position as police officer by operation of law under the rule of common law incompatibility as applied in Florida .
17. The employment contract between Watson and City in 2006 stated that City agreed to employ Watson as City Manager/Police Commissioner of said City.
18. The employment contract between Watson and City in 2006 required Watson to perform the functions and duties specified by Article 4 of the City Charter and to perform such other legally permissible and proper duties and functions as the City Commission shall from time to time assign.
19. The City of Alachua, Florida conducted a municipal election to elect one or more members to city commission of City on April 11, 2006.
20. Grapski is a principal in a not for profit organization known as The Fair Election Initiatives of Florida, Inc.

21. The Fair Election Initiatives of Florida, Inc. is a plaintiff in an action commenced in this court to contest the outcome of the 2006 election.
22. Watson is named as a defendant in the law suit filed in this court in which The Fair Election Initiatives of Florida, Inc. is a plaintiff.
23. City made an official report to the Florida Department of Law Enforcement in 2006 that stated that Watson is employed by City as a police officer.
24. Grapski made requests to inspect public records pertaining to the 2006 election maintained by City.
25. Grapski entered City's city hall on May 1, 2006 to inspect public records.
26. Grapski made this entry with the prior knowledge and consent of the defendants to this action.
27. While Grapski was inspecting public records in City's city hall on May 1, 2006, Watson personally arrested Grapski.
28. While Grapski was inspecting public records in City's city hall on May 1, 2006, Watson personally directed the City of Alachua police officers to arrest Grapski.
29. Prior to the time Grapski was arrested in City's city hall on May 1, 2006, Watson communicated with City's mayor to discuss the arrest of Grapski.
30. In response to Watson's communication to her, City's mayor told Watson that City would back him up if City's officers arrested Grapski.
31. On May 1, 2006, Watson charged Grapski with violating crimes he did not commit.
32. Watson arrested Grapski after Watson had accepted the appointment of City Manager of City and had begun to exercise its powers.
33. Watson directed the City of Alachua officers to arrest Grapski after Watson had accepted appointment of City Manager of City and had begun to exercise its powers.
34. As a consequence of Watson's arrest of Grapski, Grapski was taken to jail and incarcerated.
35. As a consequence of the arrest of Grapski directed by Watson, Grapski was subjected to

criminal prosecution and accrued substantial costs in defending himself.

36. In regard to all the foregoing actions Watson was acting as a police official employed by City.
37. The charges against Grapski constituted a felony under the law of Florida.
38. Watson saw Grapski commit no crime in City's city hall on May 1, 2006.
39. The charges brought against Grapski by City's officials did not include a charge that he had committed a crime in Watson's presence on May 1, 2006 .
40. Grapski filed a motion to dismiss the foregoing criminal charges that City's officials initiated against him.
41. The trial judge dismissed the foregoing criminal charges initiated against him.
42. The trial judge's order established that Grapski committed no crime.
43. The trial judge's order found "Under the circumstances of this case complainant Watson did not have a reasonable expectation of privacy as a matter of law nor as a matter of fact."
44. The trial court issued the foregoing order in case number 2006-CF-002034-A in this Court.
45. The trial court's order in case number 2006-CF-002034-A was not appealed and is now unappealable.
46. Subsequently, Grapski has made additional requests to inspect and copy public records pertaining to the 2006 election maintained by City.
47. Subsequently, Grapski has also made additional requests to inspect and copy other public records maintained by City.
48. Watson has refused to comply with Grapski's public records requests.
49. Deputy city clerk Alan Henderson has refused to comply with Grapski's public record requests.
50. Watson has told Grapski that Watson has been instructed not to provide public records to Grapski.

51. Grapski intends to continue making public records requests of City and its officials.
52. It is Grapski's right under §119.07 et. seq. Fla. Stat. and Article I §24(a) Florida Constitution to make public records requests of City and its officials.
53. Watson has acted as a City police officer on numerous occasions since accepting appointment as City Manager of City.
54. On February 12, 2007 Grapski went to the temporary Alachua City Hall with citizens Tamara Robbins and Canney.
55. Grapski, Robbins and Canney went to Alachua City Hall for the purpose of inspecting public records.
56. On that occasion Grapski requested deputy clerk Alan Henderson to permit Grapski to inspect public records in his possession.
57. Henderson refused to provide Grapski public records or to permit Grapski to inspect them.
58. Henderson refused to discuss Grapski's requests with him.
59. On this occasion Grapski never raised his voice.
60. On this occasion Grapski was never disruptive in any manner.
61. Watson entered City Hall and walked to the place where Henderson, Robbins, and Grapski were talking.
62. Watson immediately told Grapski he was being disruptive in making his requests.
63. Prior to intervening Watson called for City of Alachua Police Chief Jernigan to come to City Hall.
64. Watson exited City Hall into the parking lot.
65. Grapski exited City Hall behind Watson meaning to pursue his requests for public records.
66. While exiting City Hall, Watson spoke to Chief of Police Jernigan on his mobile telephone.
67. Watson told Jernigan, "he needs to leave."

68. Watson was referring to Grapski as the person who needs to leave.
69. Jernigan then appeared in person in the City Hall parking lot.
70. Grapski immediately asked Chief of Police Jernigan to take his complaint against Watson, Henderson and the City of Alachua for violating the Florida public records laws.
71. Chief of Police Jernigan refused to accept Grapski's complaint that Watson, Henderson and City were violating the public records laws of Florida.
72. City of Alachua police officer Jimmy Smith then approached.
73. Chief of Police Jernigan told officer Smith that Watson wanted them to give Grapski a trespass warning.
74. Officer Smith then gave Grapski a written trespass warning.
75. When providing Grapski the written trespass warning, Officer Smith orally directed Grapski to leave the site of the temporary City Hall and its parking lot and road access.
76. Officer Smith also orally directed Grapski not to return to the designated site of the temporary City Hall for 12 months.
77. Grapski and Tamara Robbins each telephoned the office of the Sheriff of Alachua County.
78. Grapski and Robbins requested that a sheriff's deputy come to the temporary City of Alachua City Hall.
79. A deputy sheriff arrived.
80. The deputy sheriff took a written incident report from Grapski.
81. The deputy sheriff told Grapski that the city staff had made written complaints about Grapski.
82. The deputy sheriff also told Grapski that the City of Alachua staff had said that they were not permitted to speak with Grapski about public records because these requests were in litigation.
83. The deputy sheriff provided Grapski a case number of the incident.
84. The deputy sheriff also provided Grapski a victim's brochure.

85. Grapski then departed the site of the temporary city hall designated in the trespass warning.
86. At the time this action was filed, Grapski had not returned to the site of the temporary city hall designated in the trespass warning.
87. Grapski later obtained a court order to permit him to return to the site of the temporary city hall from which he had been excluded to register as a candidate in City's 2007 election.
88. At about 7:00pm on February 12, 2007 Grapski went to the elementary school in the City of Alachua where the City of Commission of the City of Alachua had convened in a regular meeting.
89. This is a different premises than the site of the temporary city hall designated in the trespass warning.
90. As a citizen and taxpayer Grapski had a constitutional right to attend City's meeting.
91. Grapski intended to address the city commission about items on the City's meeting agenda.
92. These other items included a quasi-judicial hearing.
93. During the period of the meeting allocated for citizen comment, Grapski addressed the City Commission about the ongoing refusal of city employees and officials to respond to his public records requests.
94. Grapski also addressed the City Commission about the pending law suit concerning the 2006 City Commission election.
95. Grapski did not exceed the time allotted to him under the rules of the Commission.
96. During his presentation, Grapski approached the dais where members of the City Commission, Watson, and City Attorney Marian Rush were sitting.
97. Grapski handed Mayor Calderwood, Watson and City Attorney Rush a copy of a letter that pertained to his presentation.
98. Mayor Calderwood then admonished Grapski with what she referred to as a "final

warning” for being “disruptive.”

99. Grapski returned to the speaker’s podium and completed his presentation within the allotted time.
100. Grapski returned to his seat.
101. Grapski remained in his seat until he was forcibly removed by the City of Alachua police.
102. Grapski did not raise his voice.
103. Grapski did not otherwise interfere with the continuation of the meeting.
104. Grapski did not voluntarily interfere with the continuation of the meeting.
105. Persons in the audience sitting behind Grapski made comments to him and about him.
106. Other members of the audience were speaking to one another.
107. Grapski turned in his chair without arising.
108. In a soft voice Grapski offered to hand the persons sitting behind him a copy of his original public records request to permit them to review it for themselves.
109. These persons indicated they did not wish to review the records.
110. Without more, Grapski retained the letter and returned his attention to the podium.
111. Grapski did not interfere with or disrupt any speaker.
112. Grapski did not otherwise disrupt the meeting.
113. Mayor Calderwood then summarily accused Grapski of disrupting the meeting.
114. Mayor Calderwood ordered chief of police Jernigan to make Grapski to leave the meeting.
115. Grapski retained his seat.
116. Mayor Calderwood directed chief Jernigan to remove Grapski from the meeting
117. Grapski did not leave his seat voluntarily.
118. Chief of Police Jernigan approached Grapski.
119. Grapski maintained his seat and held his hands up together.
120. Chief of Police Jernigan placed handcuffs on Grapski.
121. Chief of Police Jernigan ordered two City of Alachua police officers to remove him from



the meeting.

122. City's police officers did remove Grapski from the building.
123. Watson stepped down from the dais and oversaw Chief of Police Jernigan and his officers as they took Grapski from the meeting.
124. Grapski did not resist the arrest.
125. Grapski never struggled and never engaged in or threatened violence of any kind.
126. At one point Chief of Police Jernigan directed another officer to "Taser" Grapski if he did not stand up.
127. Watson was present during the entire time.
128. City's police officers forcibly took Grapski to the headquarters of the Alachua police department.
129. City's police officers kept handcuffs on Grapski until they booked him into jail about two hours later.
130. Chief of Police Jernigan arrested Grapski and charged him with trespass after warning, disorderly conduct, resisting arrest without violence, and resisting arrest with violence.
131. Grapski is innocent of all charges.
132. Watson was present and oversaw City's officials when they formally arrested Grapski at City's police department.
133. Watson oversaw City's officials as they removed Grapski from city hall and arrested him.
134. A City of Alachua Police Officer took Grapski in handcuff to the Alachua County Adult Detention Center.
135. Jail officers booked Grapski into the jail on February 12, 2007.
136. Grapski remained incarcerated until February 13, 2007.
137. At about 9:00am on February 13, 2007, Judge Hulslander directed the jail authorities to release Grapski on his own recognizance.
138. The jail authorities did not release Grapski until about 3:00pm on February 13, 2007.
139. Grapski intends to continue to exercise his right to make public records requests of City

of Alachua Officials.

140. Grapski intends to continue to attend City of Alachua City Commission meetings to address the City Commission on matters of public interest.
141. Grapski has a deep and abiding fear that Watson will once again personally unlawfully arrest him in his capacity as City's police officer and have him jailed and prosecuted.
142. Grapski has repeatedly informed Mayor Calderwood and City that Watson is unlawfully exercising arrest powers as City's police officer by virtue of his appointment as City Manager and the dual office holding laws of the State of Florida.
143. Mayor Calderwood and City have taken no action to cure this violation.
144. Watson knows of Grapski's complaints in this regard.
145. On June 18, 2007 City formally approved an employment contract with Watson that employs him as City's City Manager.
146. The employment contract states that Watson is to retain the *ex officio* title of Police Commissioner.
147. The exhibit attached hereto is an unsigned copy of this contract as it was distributed in City's official agenda of the June 18, 2007 meeting of its city commission.
148. One of the purposes of the foregoing employment contract is to permit Watson to retain all special risk benefits that the laws of Florida provide for full time law enforcement officers.
149. City's charter does not include any position of police commissioner.
150. City's charter prescribes the city manager's primary duties and powers as follows:

**Sec. 4.03 - Powers and Duties.**

The City Manager shall be responsible to the City Commission for the proper administration of all affairs of the city and to that end, his powers are and they shall be:

(a) To see that the laws and ordinances are enforced.

(b) Except as hereinafter specifically provide, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone.

(c) To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the City Commission, including public utilities owned by said city.

(d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the City Attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.

(e) To attend all meetings of the City Commission, with right to take part in the discussions, but without having a vote.

(f) To recommend to the Commission for adoption such measures as he may deem necessary or expedient in the interests of the city.

(g) To keep the City Commission fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget.

(h) To perform such other duties as may be prescribed under this Charter or as may be required of him by ordinance or resolution of the City Commission.

(I) He shall be purchasing agent for the city. All purchases and sales shall conform to such regulations as the City Commission may from time to time prescribe.

151. City's charter does not specify acting as police commissioner as a duty of the city manager.

152. Watson spends the majority of his time as City's employee fulfilling the duties and powers and other functions prescribed to the office of City Manager by City's charter.

153. Watson does not spend the majority of his time acting as City's police officer engaged in law enforcement activities..

154. Watson spends the majority of his time acting as City Manager and not as police commissioner or police officer.

155. During the fiscal years 2002-03, 2003-04, 2004-05 and 2005-06, City reported to the

State of Florida, Division of Retirement that Watson was employed full time by City in a special risk employment category.

156. These reports State of Florida, Division of Retirement were false in regard to the report that City employed Watson full time in a special risk category in 2002-03, 2003-04, 2004-05 and 2005-06 fiscal years.
157. Watson was not employed full time by City as a full time police officer in 2002-03, 2003-04, 2004-05 and 2005-06 fiscal years.
158. Watson was not employed by City for a majority of his employment time in any special risk category in 2002-03, 2003-04, 2004-05 and 2005-06 fiscal years.
159. As of May 22, 2007, City reported to the State of Florida, Division of Retirement that Watson was employed full time by City for 83% of the fiscal year 2006-07 in a special risk employment category.
160. In the years from the time City initially employed Watson as city manager City has reported to the Florida Department of Law Enforcement that Watson is employed as a full time law enforcement officer in its police department.
161. Watson was not employed full time by City as a full time police officer in the 2006-07 fiscal year.
162. Watson was not employed full time by City as a full time employee in any special risk category in the 2006-07 fiscal year.
163. City does not now employ Watson full time in any special risk category.

#### COUNT I

164. Pursuant to Chapter 86 Fla. Stat. Grapski sues Watson and City, repleads paragraphs 1-145 above, and demands judgment against them in the nature of a order declaring that Watson is not a police officer of City and does not possess the power of a police officer or police commissioner to arrest Grapski or anyone else or to direct the arrest of Grapski or anyone else so long as Watson remains City Manager of City, and an order disgorging from Watson all pay and emoluments paid to him or on his behalf by City on the basis of his being a police officer since the date upon which he accepted appointment as City

Manager of City, and granting Grapski costs for this litigation.

#### COUNT II

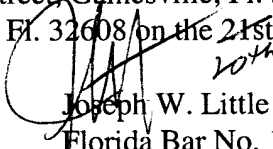
165. Grapski sues Watson pursuant to Chapter 86 Fla. Stat., repleads paragraph 1-145 above, and demands order enjoining Watson acting as a police officer to arrest Grapski on any charge or acting as a police commissioner to direct the arrest of Grapski on any charge so long as Watson remains as City Manager of City, and an order granting Grapski the costs of this litigation.

#### COUNT III

166. Grapski and Canney sue City pursuant to Chapter 86 Fla. Stat., replead paragraphs 1-17, 22, and 146-162, and demand an order holding that the employment contract City approved for Watson of June 18, 2007 is unconstitutional under Article II §5 Florida Constitution to the extent that it authorizes Watson to exercise the powers of a sworn police officer so long as he continues to act as City's city manager, an order enjoining City from paying special risk emoluments to Watson or on his behalf so long as he remains as city manager, an order enjoining City from reporting to the Florida Department of Law Enforcement that Watson is employed as a police officer by City, an order directing Watson to disgorge or reimburse City for any special risk emoluments or benefits City has paid him or others on his behalf during the time he has served as City's City commission, and an order granting plaintiffs the costs of this litigation.

#### CERTIFICATE OF SERVICE

I certify that a copy of this document was mailed by US mail or hand delivered to Robert A. Rush, Esq., Attorney for City, 726 N.W. First Street, Gainesville, Fl. 32601, and Rodney W. Smith, Esq., 2814 S.W. 13<sup>th</sup> Street, Gainesville, Fl. 32608 on the 21<sup>st</sup> day of June 2007 .

  
Joseph W. Little  
Florida Bar No. 196749  
Attorney for Plaintiffs  
3731 N.W. 13<sup>th</sup> Pl  
Gainesville, Florida 2605  
352-273-0660

O:\...\Watson\Pleadings\ComAmd706.020

# EXHIBIT

## **EMPLOYMENT CONTRACT**

THIS CONTRACT, made and entered into this \_\_\_\_ day of June, 2007 by and between the City of Alachua, State of Florida, a municipal corporation, hereinafter called the "City", as party of the first part, and Clovis Watson, Jr. , hereinafter called "Employee", as party of the second part, both of whom understand as follows:

### **RECITALS:**

**WHEREAS**, the City desires to continue employment and services of said Clovis Watson, Jr. as City Manager of the City of Alachua, as provided by Article 4, of the City of Alachua Charter; and

**WHEREAS**, it is the desire of the City Commission to provide certain benefits, establish certain conditions of employment, and set working conditions for said Employee; and

**WHEREAS**, it is the desire of the City Commission to (1) secure and retain the services of the Employee and to provide inducement for him to remain in such employment, in order to, among other things, provide administrative support to the City Commission (2) make possible full work productivity by assuring Employee's morale and peace of mind with respect to future job security and financial well-being, (3) act as a deterrent against malfeasance or dishonesty for personal gain on the party of the Employee, (4) fund and support the Special Risk Retirement of the Employee, and (5) provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties due to age or disability, defined as being unable to carryout his duties for a continuous period of sixty days or when the City may desire to otherwise terminate his employment; and

**WHEREAS**, the purposes for this Contract include among other things, extending and clarifying the terms of the City Manager's Contract.

**WHEREAS**, Employee desires to accept and continue such employment as City Manager of said City;

**NOW, THEREFORE** in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1. RECITALS:** The above recitals are true and correct and are incorporated into this Contract.

**Section 2. Duties.** City hereby agrees to employ said Clovis Watson, Jr. as City Manager of said City to perform the functions and duties specified by Article 4 of the City Charter and to perform such other legally permissible and proper duties and functions as the City Commission shall from time to time assign for a period not to exceed November 30, 2010, unless extended in writing by the City and Employee. At which time a review shall be conducted by the City Commission and a vote taken in a regularly scheduled and noticed City Commission meeting to continue or terminate said employment. To the extent deemed reasonable and in accordance with the respective roles of the City Commission and the City Manager as defined in the Charter, the City Commission agrees that all official communications with City employees will be directed to and through the City Manager.

The City agrees that the Employee shall also retain the ex officio title of Police Commissioner. The duties of the Police Commissioner shall be as permitted by law and as may be designated by the City Commission. The intent of this appointment of the Employee to the ex officio position of Police Commissioner is, and has been, since Employee's original employment as City Manager, a further encouragement of the Employee to accept and continue in the position of City Manager and to retain his law-enforcement standards and all special risk benefits and to stay especially informed regarding the operation of the Alachua Police Department so as to better facilitate any reassignment to that Department as is provided in Section 12(c) by of this Contract.

**Section 3. Term.**

A. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the City Commission to terminate the services of the Employee at any time subject only to the provisions set forth in Section 3, paragraph A and B of this Contract, said provision not being in the contravention of Article 4 of the City Charter.

B. Employee agrees to remain the exclusive employee of the City for a continuous period of time up to and including November 30, 2010. Employee further agrees neither to accept, nor to become employed by any other employer until said termination date, unless termination date is effected as hereinafter provided. The term "employed" shall not be construed to include occasional teaching, writing or consulting performed on employee's time off.



#### **Section 4. Termination and Severance Pay.**

A. In the event Employee is terminated by the City Commission before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform the duties of City Manager or voluntarily leaves the position for any reason except as otherwise set forth in this Section, then in that event the City agrees to pay Employee a lump sum cash payment equal to twelve (12) month's aggregate salary (including all accrued sick leave and vacation time) and continue health insurance benefits under Cobra for three (3) months provided, however that in the event Employee is terminated because of his conviction of any illegal act involving personal gain to him, then in that event, City shall have no obligation to pay the aggregate severance sum designated in this paragraph, provided that, in the event that the employment relationship entered into by this Contract is terminated for any reason, employee's sole remedy shall be the one provided for herein and all remedies provided by law, unless recent federal court decisions applying to City Manager/Police Commissioners have a "property right" in their employment is applicable.

B. In the event the City at any time during the employment term reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all City employees, or in the event the City refuses, following written notice, to comply with any provision benefiting Employee herein, or the employee resigns following a suggestion, whether formal or informal, by the City Commission that he resign, then, in that event, employee may at his option be terminated at the date of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.

#### **Section 5. Salary.**

A. City agrees to pay Employee for his services rendered pursuant hereto during the appointment described herein, the amount of One Hundred Twenty Four Thousand Five Hundred Ninety Two Dollars per year (\$124,592.00) plus applicable benefits, payable in installments at the same time as other employees of the City are paid. The City further agrees that the Employee shall be paid no less than seven and one half percent more than any employee under his direction. The Employee shall be automatically given any across the board salary increases or benefits given to other employees of the City.

B. The City Commission shall conduct an annual written performance evaluation of the Employee. The evaluation shall be based upon the employment standards described in the City Charter as well as those additional responsibilities assigned by the City Commission to Employee. The performance evaluation shall commence by September 1 of each year of the term of employment and concluded by September 30 of said year. Possible recommendations for merit increases in Employee's salary may be considered by the City Commission as a part of the written performance evaluation. Such increase(s) lie solely within the discretion of the City Commission based upon its conclusions reached in the written evaluation.

#### **Section 6. Hours of Work.**

A. It is recognized that Employee must devote a great deal of time outside normal office hours to the business of the City, and to that end Employee will be allowed to take compensatory time off during normal office hours, after rendering appropriate notification to the Mayor, or in his/her absence, to the Vice Mayor acting in the Mayor's absence.

B. Employee shall not spend more than ten (10) hours per week teaching, consulting or other non-city connected business without the express prior approval of the Commission. This time is to be after normal business hours.

#### **Section 7. Automobile.**

City shall provide an automobile for use by the City Manager in the performance of his duties and personal use, and to be based at his residence during non-normal hours of business. City shall be responsible for paying liability, property damage and comprehensive insurance as well as the purchase, operation, maintenance, repair and replacement of said automobile.

#### **Section 8. Dues and Subscriptions.**

City agrees to pay the professional dues and subscriptions for Employee necessary to his continued and full participation in national, state and local associations and organizations necessary and desirable to his continued professional participation, growth and advancement, and for the good of the City. Following organizations are construed as meeting the above requirements, in consonance with availability of budgeted funds:

- a. International City Management Association
- b. Florida City/County Management Association

**Section 9. Professional Development.**

City hereby agrees to budget and to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue professional development of Employee and to adequately pursue necessary official and other functions for the City, including, but not limited to, the Annual Conference of the International City Management Association, Florida City/County Management Association, and such other national, regional, state and local government groups and committees thereof which Employee serves as a member, in consonance with availability of budgeted funds.

**Section 10. Civic Club Membership.**

City recognizes the desirability of representation in and before local civic and other organizations and payment for any memberships shall be included in the annual budget submitted for City Commission approval or otherwise approved by the City Commission.

**Section 11. Health, Dental, Vision and Life Insurance.**

City agrees to provide and pay the premium payment for health, dental and vision insurance for Employee and his family either through the City's plan or by paying the amount of said premium to Employee provided, however, that in no event shall the amount of such compensation to Employee exceed the amount which the City would pay under the city's plan.. City also agrees to provide and pay the required premium for life insurance for Employee. The benefits cover by Section 10 will be enforced for the benefit of the Employee beginning the first day of employment.

**Section 12. Other Terms and Conditions of Employment.**

A. The City Commission shall fix such other terms and conditions of employment as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Contract, Article 4 of the City Charter, City of Alachua, or any other law.

B. All regulations and rules of the City of Alachua pertaining to vacation and sick leave, holidays and other fringe benefits and working conditions as they now or hereinafter may be amended, also shall apply to Employee as they would to other employees of the City, in addition to said benefits enumerated in this Contract specifically for the benefit of Employee, provided however, that Employee shall be granted either the use of or be paid the cash value of his accrued leave each calendar year that he is employed by the City pursuant to the terms of this

Contract, at Employee's discretion. The specific intent of this sentence is to clarify that the Employee is entitled to be paid the cash value of all of his accrued leave and not just his annual leave for the entire duration of the Contract.

C. To the extent permitted by law, City will continue to recognize and contribute to the State Retirement Fund for the Employee at the same legislatively approved Special Risk Category that is currently in effect. The City Commission agrees that the Employee has accepted this position first, as interim City Manager, and then as permanent City Manager with the full understanding that (a) he is to remain a certified law-enforcement officer and (b) he shall remain subject to reassignment from his current position to another position qualifying for Special Risk Membership within the City of Alachua. and (c) that he has completed more than six (6) years as a member of the Special Risk Retirement Plan. The City acknowledges that the Employee accepted the appointment to City Manager with the assurance that the City would, to the extent provided by law, continue to fund his Special Risk Retirement while he was serving as City Manager and, in the event the City Commission determines to terminate his services as City Manager, the Employee would be offered reinstatement to a special risk position equivalent to that he formerly held in the Alachua Policy Department. Employee understands that should applicable standards or laws be amended to as to disallow Employee's maintaining the Special Risk Category, the City Commission is not responsible for further contributions to this specific category. However, in the event of such an amendment, City agrees, to the extent permitted by law, to contribute to the State Retirement Fund for the Employee at the same percentage rate as the Special Risk Category or the contribution percentage rate for Management, whichever is greater.

D. Employee will be reimbursed for expenses incurred in service to the City or the City Commission upon submittal of receipts and requests for reimbursement. In addition, the Employee will be permitted unlimited use of the cellular telephone provided by the City so long as costs to the City do not exceed the cellular telephone plan in effect at the time of employment.

E. The City Commission understands that Employee is actively pursuing a graduate academic degree ("Degree") and has approximately 18 hours left to complete his post graduate curriculum. To facilitate the completion of this effort, the City agrees to pay 100% of the Employee's educational expenses, including, tuition, books and supplies, not to exceed an additional \$15,000 without further City Commission approval. Payments shall be made at the

beginning of each academic term and Employee shall provide the City receipts for all tuition, books and supplies.

F. Employee shall be entitled to receive one (1) additional week of vacation in addition to the same vacation and sick leave benefits as are accorded to City employees, including provisions governing accrual and payment therefore on termination of employment, and as provided for by the City Commission.

**Section 13. General Provisions.**

A. The text herein shall constitute the entire agreement between the parties.

B. This Contract shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

C. This Contract shall become effective commencing the \_\_\_\_\_ day of June 2007.

D. This Contract supercedes and replaces in toto that certain Employment Contract between the City and Employee dated August 28, 2002 including all Amendments thereto.

E. If any provisions or portion thereof contained in this Contract is held to be unconstitutional, invalid or unenforceable, the remainder of this Contract, or portions thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

**IN WITNESS WHEREOF**, the City of Alachua has caused this Contract to be signed and executed in its behalf by its Mayor, and duly attested by its Deputy Acting City Clerk or other legal representative, and the Employee has signed and executed this Contract the year and day first above written.

Attest:

\_\_\_\_\_  
Alan Henderson  
Deputy City Clerk  
City of Alachua

\_\_\_\_\_  
Gib Coerper, Mayor  
City of Alachua

Approved as to form:

\_\_\_\_\_  
Marian B. Rush  
City Attorney  
City of Alachua

\_\_\_\_\_  
Clovis Watson, Jr., MPA  
Employee